IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF SEPTEMBER

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR. JUSTICE V.V.S.RAO

WRIT PETITION NO.8387 OF 2004

Between:

G. Susheela, W/o.Late G.Venkata Swamy

R/o.1-6-46/1, Chaitanyapuri, Kothapet, Ranga Reddy District.

…PETITIONER

And

1.The Regional Passport Officer,

Passport Office, Secunderabad

…RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue writ or orders more particularly writ of mandamus declaring the action of the respondent in not considering the representation of petitioner for change of date of birth in passport arbitrary, illegal, null and void and apart from the letter and spirit of Constitution of India and consequently direct the respondent to change the date of birth as 20.10.1941 instead of 20.10.1947 in passport of petitioner No.A6473398 issued on 13.10.1998.

Counsel for the Petitioner: MR. MOHD. MUMTAZ PASHA

Counsel for the Respondent: SRI A. RAJASEKHAR REDDY

(S.C. FOR CENTRAL GOVT.)

The Court made the following:

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.8387 OF2004

ORDER:

The petitioner obtained passport on 13.10.1998. Her date of birth is shown as 20.10.1947. The petitioner claims that her correct date of birth is 20.10.1941. Therefore, she approached the Municipal Corporation of Hyderabad (MCH) for issue of date of birth certificate. The MCH, however, issued a non-availability certificate under Section 17 of the Registration of Births and Deaths Act, 1969 (for short, the Act) certifying that after verification of the registration records for 20.10.1941, it was found that the event relating to the birth of the petitioner was not registered. The petitioner made a representation on 1.10.2003 for making necessary correction in

the passport, as she wants to go to U.S.A. where her daughters are residing. It appears, the respondent refused to receive the application of the petitioner. Hence, the Writ Petition.

Though interlocutory application is listed, with the consent of the learned counsel for the petitioner and the learned Standing Counsel for the Central Government, the Writ Petition itself is heard finally and is being disposed of.

Learned counsel for the petitioner, Sri Mohd. Mumtaz Pasha, contends that in view of the non-availability of the certificate, respondent ought to have accepted the date of birth of the petitioner as 20.10.1941 and ought to have corrected the date of birth in the passport.

In ***Ali Imran v. Regional Passport Officer, Secunderabad***, I have considered the Circular dated 18-4-2001 issued by the Government of India in the Ministry of External Affairs pursuant to the judgment of the High Court of Judicature at Bombay in Civil Writ Petition No.1072 of 2000. The instructions/clarifications issued in the said Circular read as under.

a. Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (passport issuing authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

b. Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

c. Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.

In view of the above clarifications, I disposed of the said case observing as under.

Be it noted that under the provisions of the Passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the judgment of the High Court of Bombay referred to hereinabove, it is now permissible for the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the civil court.

As per provisions of Section 13 of the Act, every birth or death has to be registered within thirty days of its occurrence, or within one year with the written permission of the prescribed authority on payment of prescribed fee. If the birth or death is not registered within one year, as mentioned herein, the birth or death can only be registered by competent authority only on an order made by Magistrate of First Class after verifying the correctness of birth or death. In this case, the petitioner has obtained non-availability of the certificate from MCH. She did not produce any proof in support of her claim that her date of birth is 20.10.1941. Therefore, as per the Circular dt.18.4.2001 of the Government of India, the respondent has to advise the petitioner to obtain appropriate declaration from the Civil Court. Based on the non-availability of certificate, the respondent cannot alter or amend the date of birth in the passport. Therefore, the respondent was justified in refusing to accept the application for correction of date of birth. If so advised, the petitioner may approach Civil Court and obtain declaration and then approach the respondent for correction of date of birth in the passport. In this Writ Petition, no relief can be granted.

The Writ Petition, with the above observations, is disposed of. No costs.

_____

2.9.2004 (V.V.S.RAO, J)

bnr

To

1.The Regional Passport Officer, The Regional Passport Office

Near Clock Tower,

Secunderabad

2. 2 CD copies.